IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 977 of 2005

Between:

L.Laxmi Naik S/o.Soumya Naik,
R/o.Takulkod Village, Kodangal Mandal, Mahaboobnagar District.

..... PETITIONER

AND

The Collector (Panchayat Raj), Mahaboobnagar.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate order or direction more particularly one in the nature of writ of Mandamus declaring the action of respondent placing the petitioner under suspension beyond 6 months vide procs.No.A1/1750/2003, dt.13.7.2004, as arbitrary, illegal and violative of Article 14,21, of the Constitution of India and contrary to the Sec.249 (6) of the A.P. Panchayatraj Act 1994 consequently declare that the petitioner deserves to be continued as Sarpanch from 13.01.05.

Counsel for the Petitioner:MR.K.GOVIND

Counsel for the Respondent : GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission made the following :

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ORDER:

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This writ petition is filed seeking a declaration that the action of the respondent in placing the petitioner under suspension beyond the period of six months is arbitrary and illegal.

The petitioner is the elected sarpanch of the Takulod village, Kodangal Mandal, Mahaboobnagar District. He was served with a show cause notice dated 11.12.2003 issued by the respondent calling upon him to explain the charges specified thereunder. The petitioner states that though he has submitted his explanation denying all the allegations, the respondent has passed an order on 13.07.2004 placing him under suspension for a period of three months under Section 249(6) of the A.P.Panchayat Raj Act (for short "the Act"). The petitioner further states that after expiry of three months specified under the order, dated 13.07.2004, though no further orders have been passed extending the period of suspension, he is not allowed to discharge his functions as Sarpanch.

The contention of the petitioner is that under the second proviso to Section 249(6) of the Act, the total period of suspension shall not exceed six months and since admittedly he was placed under suspension as long back as on 13.07.2004, the six months period has expired on 13.01.2005 and thereafter he shall be deemed to be continued in the office. Hence this writ petition.

Learned Government Pleader for Panchayat Raj, under instructions, states that the respondent has subsequently passed an order on 16.10.2004 extending the period of suspension of the petitioner for a further period of one month from 13.10.2004 to 12.11.2004. Though the learned Government Pleader concedes that thereafter the period of suspension has not been extended for further period, submits that the proceedings for removal of the petitioner under Section 249(1) of the Act have

already been initiated and the enquiry is pending.

Be that as it may, admittedly from the initial order dated 13.07.2004, the period of six months has already expired and as per the second proviso to Section 249(6) of the Act, the total period of suspension shall not exceed six months, I am of the view that it is not open to the respondent to continue the petitioner under suspension any longer. However, it is always open to the respondent to proceed with the enquiry initiated under Section 249(1) of the Act and to pass appropriate orders in accordance with law.

Accordingly, the writ petition is disposed of with a direction to the respondent to allow the petitioner to continue in the office of the Sarpanch forthwith. However, the respondent may proceed with the enquiry already initiated against the petitioner under Section 249(1) of the Act and pass appropriate orders following due process of law. No costs.

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18.02.2005

Note : Furnish C.C. in two days.

(B/O)

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To

1. The Collector (Panchayat Raj), Mahaboobnagar.

2. Two C.Cs to the G.P. for Panchayat Raj and Rural Development, High Court Buildings, Hyderabad.

3. 2 CD copies